



November 13, 2018

To: customerchoice@cpuc.ca.gov

Re: NRG Power Marketing, LLC - Informal Comments on Draft Gap Analysis Action Plan

NRG Power Marketing, LLC (“NRG”) hereby submits these informal comments on the October 2018 Customer Choice Project: Draft Gap Analysis/Choice Action Plan (“Draft Gap Analysis/Action Plan” or “Draft GA/AP”).

I. INTRODUCTION

The Draft GA/AP:

- identifies key issues in the customer choice discussion;
- identifies any gaps regarding those key issues;
- identifies how and what current regulatory and legislative processes are addressing the gaps; and
- recommends a framework for an action plan to develop concrete solutions to any gaps.

The Draft GA/AP organizes its gap discussion into three categories:

- Consumer protection;
- Duty to serve and reliability; and
- Energy procurement.

The Draft GA/AP identifies three overarching principles and goals that frame and bound the Customer Choice discussion. Those three principles and goals are:

- Affordability;
- Decarbonization; and
- Reliability.

II. COMMENTS

NRG's comments are organized in the same way that the Draft GA/AP was organized – by issue and proposed recommendation.

CATEGORY: Consumer Protection

ISSUE: Access to customer data in an effective and efficient way by all LSEs, including BTM providers and CCAs

PROPOSED ACTION: Continue existing CPUC regulatory action; additional analysis required to narrow data attributes, aggregation and availability

NRG Comment: Access to customer data is the key to creating and providing innovative energy management products to customers.

In NRG's experience, customers are highly responsive to real-time billing impacts of their consumption decisions. For example, sending text messages to customers that their electric usage has spiked on a particular day is highly effective at changing customer behavior and usage. However, as the "immediacy" of the price signal decreases, it becomes increasingly more difficult for customers to see the impact of their behavior on their bills. Further, customers interested in exercising more granular control over their usage, for example, because of environmental concerns, also benefit from providing suppliers speedy access to customer meter data.

In NRG's experience, suppliers' ability to customize the energy consumer's experience benefits from supplier access to quality interval meter data on a real-time basis, or at worst, near-real-time basis (i.e., 24 hours or less).

Customers should consent in advance to suppliers having access to their data. This consent could be captured upon accepting a sales agreement. Once consent has been provided, utilities must provide suppliers with access to their customers' near real-time interval meter data all at one time, every day. Finally, load should be settled based on actual interval meter data, not on load profiles.

CATEGORY: Consumer Protection

ISSUE: Relief for disconnection of service during periods of natural disasters, such as wildfires

PROPOSED ACTION: Monitor and continue existing CPUC regulatory action: assess what other protections are needed to ensure that consumers obtain vital services during disasters in current proceeding

NRG Comment: NRG has significant experience with dealing with customers experiencing natural disasters, in particular with hurricanes in the Houston area. NRG supports providing relief from disconnection of service during periods of recovery from natural disasters. Additionally, any “bad debt” costs incurred by retail suppliers should be socialized across all customers in accordance with existing bad debt allocation processes on a manner comparable to that of the utilities.

CATEGORY: Consumer Protection

ISSUE: Disclosure of GHG and renewables content in LSE electricity portfolios

PROPOSED ACTION: Monitor/follow new CEC rulemaking to create content labeling guidelines for all LSEs, including publicly-owned utilities

NRG Comment: As noted below in the section on Resource Adequacy requirements, it is important that retail choice providers be held accountable for their share of Resource Adequacy requirements, including their share of gas-fired generation that is procured to ensure local reliability. - While retail choice providers should be allowed to tailor their resource mix to meet the needs and desires of their customers, they should not be permitted to avoid procuring (or, at least, paying their share of) needed reliability resources. Similarly, power content reporting should include each retail choice provider’s share of these reliability resources.

NRG complies with RPS requirements in every state in which it operates. This includes disclosing that renewable content that exceeds the prevailing RPS percentage in our marketing of green power products.

CATEGORY: Consumer Protection

ISSUE: Disconnection of residential customers

PROPOSED ACTION: Monitor and continue existing CPUC regulatory action; additional analysis required to determine whether the state can or should require all LSEs to conform to the same disconnection protocols

NRG Comment: NRG supports applying existing disconnection rules applicable to the Investor Owned Utilities to retail choice suppliers. While the IOU will of course “roll the

trucks” to actually disconnect customers for non-payment, retail suppliers should be subject to the same stringent orders before sending the disconnect order.

In addition to consistent disconnection protocols that do not disfavor one retail provider over another, there is also a need for consistent protocols dealing with de-energizing network facilities to address wildfire risk. While such protocols affect distribution and transmission operators more than retail service providers, customers whose service is de-energized due to wildfire risk may not perceive or understand the different roles that retail service providers and network operators play.

CATEGORY: Consumer Protection

ISSUE: Emergency planning and response

PROPOSED ACTION: Additional analysis required to determine the following whether emergency response is solely the responsibility of the IOUs as grid operators and the obligation of other LSEs

NRG Comment: In NRG’s experience, many retail choice suppliers have emergency action plans (including business continuity plans) that are available to relevant state regulators upon request. In some jurisdictions, emergency calls are made to the retail choice provider, which then interface directly with the “wires” portion of the company where necessary. While NRG does not recommend this as the preferred option, there are various ways to structure customer-facing emergency services. Please also see NRG’s comment on the issue above.

CATEGORY: Consumer Protection

ISSUE: Provider of Last Resort (POLR)

PROPOSED ACTION: Additional analysis is needed to examine the role of the IOUs as the default POLRs; Legislative action needed to define POLR in statute and which LSEs will serve in this capacity

NRG Comment: Provider of Last Resort (POLR) service has fulfilled a vital role in competitive electric retail markets in other regions of the United States, but if POLR service is not designed and implemented correctly, it can be abused and stymie competition. POLR service should be expressly limited to the provision of temporary electric service for customers in the event their provider exits the competitive market prior to the customer switching to a new provider. POLR providers should be competitive participants that meet certain financial requirements established by the

CPUC to ensure a stable backstop for customers and the continuation of service. In addition, the CPUC should establish rates that POLR providers can charge customers to ensure recovery of costs and to encourage customers to switch to a competitive provider. The POLR rate can be designed as a “price to beat” structure that is indexed to wholesale market prices in the event of pricing fluctuations during a drop to POLR event. The CPUC can facilitate an annual process to select POLR providers and offer the opportunity for any provider that meets the minimum financial requirements to compete to provide the service. The CPUC should establish customer notification requirements for POLR providers during a drop to POLR event to minimize customer confusion. Importantly, the CPUC should endeavor to establish rules that do not prohibit or delay the ability for a customer to switch away from the POLR provider to foster and encourage the competitive process.

CATEGORY: Consumer Protection

ISSUE: Predatory sales tactics: Electric Service Providers (EPSs) and Core transport agents (CTAs)

PROPOSED ACTION: New CPUC action needed to develop comprehensive protocols/processes for enforcement if authority exists; in cases where authority does not exist, seek legislative action

NRG Comment: NRG's retail companies have more than 20 years' experience serving all classes of customers. NRG affiliate Green Mountain Energy Company was one of the first retail suppliers to serve mass market customers in California in 1997. The NRG Retail affiliates have contributed to the development of consumer protection public policy in states where retail energy competition is available to customers. NRG supports robust consumer protections that strike a balance between allowing customers to freely shop for energy supply service and products without undue obstacles, while ensuring against unscrupulous marketing and sales practices.

NRG offers these recommendations:

- Raise the performance standards for companies entrusted to serve essential electricity service.
 - In NRG's experience in other retail choice footprint, it is better to regulate on the front end than to fix things on the back end.
 - Require financial security requirements to ensure that only well-financed companies with appropriate business and operational resources qualify to participate in the market.

- Require Retail Access Providers to employ full-time dedicated Quality Assurance resources to ensure compliance by sales agents.
- Create a complaint registry to track compliance issues by third party sales vendors.
- Provide for an alternative to the utility account number as the primary identifier for purposes of processing customer enrollments. This will lessen the need for door-to-door or other follow-up calls that are required because customers typically have access to their utility account number only at home.
- Require retail providers who intend to use door-to-door and outbound telemarketing channels to post supplemental bond amounts with the CPUC.
- Balance safeguards for low income customers with protecting their right to choose an energy supplier that meets their household budget needs and personal preferences.
 - Limit sales channels (e.g. door-to-door, telemarketing) that target low income customers.
 - Provide alternative shopping opportunities for low income customers.

CATEGORY: Consumer Protection

ISSUE: Predatory sales tactics residential customers: rooftop solar & energy efficiency

PROPOSED ACTION: Monitor and continue existing CPUC regulatory action and take new CPUC regulatory action for enhanced consumer protections, such as additional avenues for mediation, enforcement and penalties; in cases where authority does not exist, seek legislative action

NRG Comment: NRG recommends developing and implementing a series of requirements, including stringent requirements for capitalization and expertise, combined with robust enforcement of consumer protection standards. This will help ensure that retail choice suppliers are legitimate established businesses.

CATEGORY: Consumer Protection

ISSUE: Price disclosure: all LSE residential rates and product offerings

PROPOSED ACTION: Conduct additional analysis to determine if an online platform should be created for consumers to access and compare information about electricity

rates; new CPUC or CEC proceeding to implement the proposal if analysis finds it prudent; possible legislative action to implement proposal and provide agencies necessary authority for data aggregation or to serve as the platform provider

NRG Comment: NRG supports price disclosure on the first page of all sales agreements.

NRG supports implementing shopping websites for consumers to compare offers from competing suppliers. Offers posted on such a platform should be voluntary. Further, the comparisons provided should be between retail suppliers only, and not compared to utility default service.

Examples of shopping websites include the Public Utility Commission of Texas Power To Choose (<http://www.powertochoose.org/>), the Illinois Commerce Commission Plug In Illinois (<https://www.pluginillinois.org/>) and the Massachusetts Department of Public Utilities Energy Switch Massachusetts (<http://www.energyswitchma.gov/#/>) platforms.

CATEGORY: Consumer Protection

ISSUE: Public Purpose Programs

PROPOSED ACTION: Conduct additional analysis to determine if growth of LSEs will affect funding for public purpose programs; if analysis is indicative of adverse impacts to funding for these programs seeking new CPUC proceeding to address, or legislative action if needed

NRG Comment: NRG recommends that the Commission address this issue on a case-by-case basis as issues arise.

CATEGORY: Duty to Serve

ISSUE: Distribution of grid services

PROPOSED ACTION: Continue existing CPUC regulatory action; additional analysis to determine if any new issues regarding distributed energy resources should be addressed in a new CPUC regulatory proceeding

NRG Comment: The CPUC has two active proceedings (R.14-08-013, Distribution Resource Planning and R.14-10-003, Integration of Distributed Energy Resources) that are considering how DERs, including third-party DERs, can provide grid services. NRG

encourages the Commission to continue to work towards enabling third-party provision of grid services through these proceedings.

CATEGORY: Duty to Serve

ISSUE: Rate Design

PROPOSED ACTION: Conduct additional analysis on fixed charges for cost recovery and how behind-the-meter and preferred resources are impacted by rate design; legislative action for CCAs to default customers to time-of-use rates

NRG Comment: In its discussion of this issue, the Draft GA/AP presented the following attributes of a proper rate design:

- 1) encourage efficient and cost-effective use of electricity
- 2) properly value the carbon content of electricity
- 3) help integrate renewable resources into the electric grid
- 4) do not inhibit the development of behind-the-meter technologies
- 5) prevent undue cost shifting to bundled customers
- 6) allow IOUs to remain indifferent to loss of customer demand
- 7) allow competitive services and providers to participate in an open market platform
- 8) maintain reliable service
- 9) properly compensate the utilities for grid compensation and other services that are not otherwise compensated

The nine principles listed are sound principles. Achieving them all simultaneously, however, is likely to be impossible.

Retail providers should be allowed to develop rates that, as best can be achieved, simultaneously meet their customers' needs and the shared needs of the grid or the local grid needs present at the customer's location.

With regards to principle 6, NRG notes that this principle should apply not only to the IOUs but to all retail providers. It is reasonable to expect that non-IOU LSEs will engage in procurement on behalf of customers that will later take retail service from a different provider. These entities also should be allowed to recover the costs of their "on behalf of" procurement. The complexities associated with tracking the allocation of "on behalf of" procurement in a dynamic paradigm in which load is shifting providers is one of the strongest arguments for centralized procurement,

which would allocate the cost of procurement on a consistent basis (e.g., based on load, either peak-demand based or energy-based, in the delivery year) without the need for complicated, multi-layered indifference adjustments.

CATEGORY: Duty to Serve

ISSUE: Resource Adequacy

PROPOSED ACTION: Monitor and continue existing CPUC regulatory action; additional analysis to better understand reliability needs of the grid beyond current resource adequacy protocols

NRG Comment: At its core, resource adequacy (“RA”) is about ensuring that reliability needs are met. Reliability needs – which can include such things as (1) dispatchable generation; (2) dispatchable load (e.g., demand response), and (3) battery energy storage - are a function of the delivery network and the location and amount of load and generation on that network. While customer choice does not affect the network or the location and amount of load and generation, because customer choice affects which entity is responsible for serving that load, there is a strong interaction between customer choice and RA.

NRG strongly supports the idea of allowing customers to choose their electricity providers based on their own needs and preferences. Such choice, however, cannot adversely affect reliability.

As a supplier of RA capacity, NRG has recently experienced firsthand how the disintegration and assignment of RA requirements to increasingly smaller load-serving entities (LSEs) impacts procurement. Small LSEs have small RA requirements and are looking to procure small amounts of capacity. The owners of large generating units (large, at least, relative to the RA needs of individual small LSEs), however, are reticent to transact small amounts of RA capacity without knowing whether they will attract a critical mass of such transactions that warrant keeping a large unit in operation. In addition, the increasing number of small LSEs also imposes additional bilateral transaction costs on RA suppliers and on the regulators and system operators that must oversee and validate the procurement. For these reasons, NRG continues to strongly urge the Commission not only to implement centralized RA procurement, as it is considering in the RA proceeding (R.17-09-020), but to consider and implement centralized procurement of all resources, including the renewable and integration resources that will be needed to accomplish another of the over-arching goals (de-carbonization) identified by the Draft GA/AP.

As noted below, while NRG advocates for centralized procurement, NRG is highly skeptical about central procurement that puts IOUs in the central procurement role.

CATEGORY: Duty to Serve

ISSUE: Role of IOUs in a disaggregated market

PROPOSED ACTION: Conduct additional analysis to review current Affiliate Transaction Rules to determine effectiveness; new CPUC regulatory proceeding and/or legislative action depending on the findings.

NRG Comment:

The Draft GA/AP asks these critical questions:

1) **What is necessary to support IOUs as the primary source of distribution grid services regardless of the type of supplier?**

While the Draft GA/AP does not define “distribution grid services”, NRG questions the premise of the question, namely, that IOUs must be the primary source of distribution grid services. In a paradigm in which distributed energy resources (DERs) flourish, other parties in aggregate could very well become the providers of “distribution grid services.” Smart inverters can and should be used to maintain acceptable voltage profiles. Third-party-deployed active power resources, like demand response and battery energy storage, can provide active power flow control. Clearly, while there will be a role for the utilities with regards to planning, constructing and maintaining their distribution systems, it is not difficult to envision a paradigm in which “grid services” that support the reliability of the distribution system but are not tied directly to work on the wires could be provided by third parties.

Unquestionably, the IOUs have a critical role to play with regards to the design, construction, and maintenance of their network delivery systems. Given the current and future expected movement of load away from the IOUs, however, a default assumption that the future IOU role should be any larger than this critically important role should be carefully examined.

2) **What if the utility is relieved of the obligation to serve?**

- a. **What are the threshold criteria to provide service without disruption if an LSE fails or denies service to a customer, e.g. capitalization, adequacy of supplies, equitable treatment of all customers?**
- b. **Should there be a designated entity (or entities)?**

3) **How will current IOU rate design elements carry forward in a disaggregated market?**

If the focus of rate design is on implementing rates that meet both customer needs and electric system needs, it should not matter whether such rates are currently in place with or even developed by the IOUs. Retail providers should be held accountable for meeting customer and grid needs, and should seek to do so through innovative and responsive rate design.

4) **What are the options for utilities that continue to provide retail electric service with other LSEs in an open market or would they be barred from the retail market like in Texas?**

NRG believes that the Texas model, which bars utilities from providing retail electric service, has proven to be the most effective retail choice model and should be the preferred option for California. Utilities should be unburdened of the costs and operational requirements associated with procuring and administering default commodity supply service, and instead focus on providing a reliable delivery network.

CATEGORY: Procurement

ISSUE: Contracting for reliability resource requirements

PROPOSED ACTION: Monitor and continue existing regulatory CPUC action; additional analysis required to assess new market developments and determine the best ways to deploy capital to support cost-effective investment to advance the state's GHG reduction goal

NRG Comment: Given (1) the movement of load away from the IOUs and toward more and smaller suppliers and (2) the changing nature of the resource mix and the associated change in operating and reliability needs, there is no more important issue to be considered than the future structure of resource procurement in California. Solving this issue within the framework of reliability, affordability and GHG reduction will require a new, creative, and cooperative approach.

CATEGORY: Procurement

ISSUE: Electrification of transportation, buildings and appliances

PROPOSED ACTION: Electrification of transportation and other fuel uses, e.g. buildings and appliance standards, is underway at the CPUC and CEC. The Commission should monitor progress.

NRG Comment: California's ability to achieve its decarbonization goals will depend in large and perhaps, in the near term and absent some yet realized transformative technology, exclusive part on its ability to electrify everything that requires energy, including and especially building energy use and transportation. The Commission's ambitious Integrated Resource Planning (IRP) process (R.16-02-007), while still nascent, should rapidly seek to integrate this reality into its efforts to optimize California's resource mix and the system by which the energy from those resources is delivered. While expanding an already complex planning process to additional sectors will not be easy, if the IRP process is not expanded to consider all sectors of the California economy, California may optimize achieving one-sixth of its carbon reduction goal but will not optimize squeezing out the other five-sixths of carbon emissions, to the detriment of the Californians that will be paying that cost.

III. CONCLUSION

NRG commends the Commission for its continued work on the Customer Choice project and thanks the Commission for the opportunity to submit these informal comments.

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